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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,253	12/31/2003	Paul T. Van Gompel	20,088	1718
23556	7590	02/02/2006	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC.			EVANS, CHIVONNE LAURIE	
401 NORTH LAKE STREET			ART UNIT	
NEENAH, WI 54956			PAPER NUMBER	

3761

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/750,253	<b>Applicant(s)</b> VAN GOMPEL ET AL.	
	<b>Examiner</b> Chivonne L. Evans	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 11/09/2005.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4-5, 7-14,17, 20-21, 23-29, 32,35-36, 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kling (5817086). Kling teaches a disposable garment with an elastic inner or top layer, with an absorbent body and liquid impermeable bottom layer (the barrier layer) joined thereto (Column 3, 23-40) at peripheral edges of the diaper. Kling disclosed the elastic impermeable top layer (C8, 44-47) comprising of a top layer (interior) and an inner cover layer (exterior), made from a different material (Column 3, 55-60), and an opening (Column 5, 1-3) which is shown in Figure 1, 17 to encompass at least 10% and less than 80% of the total length of the article. Kling also teaches that the elastic top layer has elastic cuffs along the lateral edge of the crotch portion of the diaper, or the elastic members may be joined to both the top and bottom layer (Column 4, 62-66). The elastic cuffs taught by Kling deviate 45 degrees from the longitudinal line of symmetry (Column 4, lines 55-57) meaning that the crotch to fastener portion angle is equal to 45 degrees. The absorbent article taught by Kling has a front and rear region (Figure 1, 12 and 13) with ear portions, which ear

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portions are defined as extensions of the side) on each side that have faster means (Figure 1, 10 and 11) attached laterally inward of each longitudinal side of front and rear waste region of the article on either the top or bottom layers (Column 4, 39-41).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3, 6, 18-19, 22, 33-34, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kling (5817086) in view of Tanzer (6570056). Kling discloses the invention substantially as claimed except for an inner elastic layer that stretches in the longitudinal direction in the crotch region, and lateral direction in the front and back piece of the sheet, as per claims 2, 3 and 6. Tanzer teaches an absorbent article that is stretchable in the longitudinal direction in the central region (crotch), and laterally stretchable in the two end regions (front and back regions) (Figure 1- 72, 74, and 76 and Column 1, lines 52-56) to provide selectable stretching corresponding to parameters which are ideal for each region to improve comfort of the article for the user. It would have been obvious to one of ordinary skill of the art at the time of the invention to modify Kling's absorbent article with selectable stretching regions as taught by Tanzer, to ensure a flexible and comfortable fit of the absorbent article on the wearer.

6. Claims 15-16, 30-31, 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kling (5817086) in view of Tanzer (6570056) as applied to claims 2-3, 6, 18-19, 22, 33-34, and 37 above, and further in view of Muller (EP 1201212). Kling in view of Tanzer discloses the invention substantially as claimed except for a waste region with a center panel and a fastener that is equal 6 inches or less as claimed by the applicant. Muller teaches an absorbent article with a fecal management configuration, that has an elastic waste band in the middle region of the longitudinal edge with a length of 11 cm (4.33 inches) and attachment regions of 2.5 cm (0.9 inches) (Paragraph 129, line 50-51) to provide a comfortable, but secure fit around the wearer. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kling in view of Tanzer by providing an elastic waste band in the middle region of the longitudinal edge with a length of 11 cm and attachment regions of 2.5 cm to provide a comfortable, but secure fit around the wearer.

***Response to Arguments***

7. Applicant's arguments filed 11/09/2005 have been fully considered but they are not persuasive.

- (Claim 1) In response to argument about the lack of Z or C folded lateral extensions in the absorbent assembly, Kling incorporates Widlund (W0 85/25493) into his disclosure which reveals a C-fold lateral extensions (topsheet layer and barrier layer) of the absorbent assembly in Figure 5.

- (Claim 17) In response to arguments made regarding the ear portions being connected to both the topsheet and outer layer, the incorporated Widlund also reveals this configuration in Figure 1, whereas the backside of the ear portions are connected to the outer layer and the inner side of the ear portions are connected to the topsheet.
- (Claim 32) With respect to the argument stating that the fastener tabs being located on the inner and outer layer the inner layer of the article, Kling teaches that the receiving areas can be located on either the top or bottom layers therefore the fastening system is interchangeable.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chivonne L. Evans whose telephone number is 571-

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272-8686. The examiner can normally be reached on between 6:30-3:30, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Chivonne L. Evans  
Examiner  
Art Unit 3761

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**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

